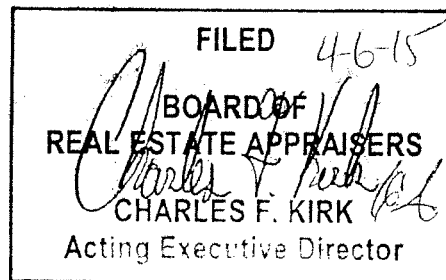


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JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Division of Law - 5th Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for New Jersey State Real  
Estate Appraiser Board



By: Barbara Lopez  
Deputy Attorney General  
(973) 648-7454

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY STATE REAL ESTATE  
APPRAISER BOARD

IN THE MATTER OF THE LICENSE	:	
OR CERTIFICATION OF	:	
	:	Administrative Action
JAY S. ROSENTHAL	:	
Certification # 42RC00124200	:	
	:	CONSENT ORDER
TO ENGAGE IN THE PRACTICE OF	:	
REAL ESTATE APPRAISING	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Real Estate Appraisers ("Board") upon receipt of information concerning appraisal reports prepared after an inspection on December 30, 2013 by Jay S. Rosenthal ("Respondent") for property located at 115 Alexander Street, Newark, New Jersey.

In reviewing this matter, the Board has considered available information including the complaint form and its

attachments, Respondent's reply to the complaint form, Respondent's complete work file, and Respondent's testimony when he appeared before a committee of the Board for an Investigative Inquiry on October 28, 2014.

Respondent accepted an assignment to prepare an appraisal report of the subject property as a one family dwelling. Respondent inspected the property on December 30, 2013 and thereafter completed three reports: one dated December 31, 2013, the second dated January 15, 2014, and the third dated January 16, 2014. Upon inspection, Respondent concluded that the property was being used as a two family dwelling. Respondent completed the first and second reports and indicated that the dwelling had two units and that its zoning compliance was "Legal Nonconforming." Respondent had misinterpreted initials on county tax record data to conclude that the property was zoned legal nonconforming.

After the second report, Respondent was provided with a letter from the Zoning Officer indicating that the legal use of the property is as a one family and that if the property contains a use that is not legal, the use must be abated through removal or the owner would have to seek to legalize the use. After receiving this information, Respondent completed the third report where he indicated the dwelling was a two family unit

with "Illegal" zoning compliance. Respondent failed to recognize that valuation of an illegally used property is contrary to appraisal theory because only legally used properties will qualify for a loan and Respondent was providing his appraisal to the lender.

Respondent failed to develop an opinion of the highest and best use of the real estate, and if he had done so, he would have realized that the property could not be appraised as an illegal two family because one of the four requirements of the highest and best use is that the use is legally permissible.

The Board finds that in preparing the report, Respondent violated provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP") (2012-2013 Edition, effective January 1, 2012 through December 31, 2013) and/or (2014-2015 Edition, effective January 1, 2014 through December 31, 2015) including the following:

1. Standards Rule 1-1(b) in that Respondent committed a substantial error of omission or commission that significantly affects the appraisal by failing to appraise the subject as a one family; and

2. Standards Rule 1-3(b) in that Respondent failed to develop an opinion of highest and best use of the real estate

when it was necessary for credible assignment results in developing a market value opinion.

The Board concludes that, by failing to ensure that the subject property appraisal conformed to the requirements of the USPAP, Respondent violated N.J.A.C. 13:40A-6.1 and engaged in professional misconduct. The Board thus finds that cause for formal action against Respondent exists pursuant to N.J.S.A. 45:1-21(e) and (h).

The parties desiring to resolve this matter without need for further proceedings, Respondent waiving any right to a hearing, and the Board being satisfied that good cause exists for the entry of the within Order;

IT IS on this 6<sup>th</sup> day of April, 2015

ORDERED and AGREED:

1. Respondent is reprimanded for his professional misconduct and failing to comply with regulations administered by the Board.

2. Respondent is assessed a civil penalty of one thousand five hundred dollars (\$1500). Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to Charles Kirk, Executive Director, State Real Estate Appraiser Board, P.O. Box

45032, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this Consent Order. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

3. Respondent shall, within six (6) months of the date of filing of this Order, provide proof of having fully attended and successfully completed the following courses:

- a) Advanced Residential Market Analysis and Highest and Best Use (15 hour);
- b) 15 hour National USPAP course or its equivalent;
- c) Basic Appraisal Procedures (30 hours).

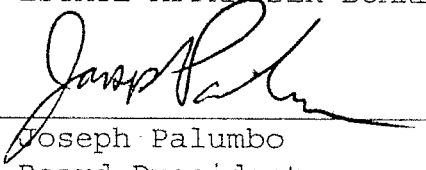
Respondent shall be required to secure pre-approval from the Board for any course he proposes to take to satisfy the requirements of this paragraph. The courses shall be taken in a classroom setting; the Board will not approve an "on-line" or distance learning course. For purposes of this paragraph, "successfully complete" means that Respondent shall fully attend sessions, pass any examination given at the end of the course, and/or obtain a passing grade at the completion of the course.

Respondent may not claim any continuing education credit for the completion of the courses herein required; these courses shall be in addition to the continuing education required for biennial license renewal. Respondent shall mail proof of completion to Charles Kirk, Executive Director, State Real Estate Appraiser Board, P.O. Box 45032, Newark, New Jersey 07101 within six months of the date of filing of this Order.


4. Failure to comply with the terms of this Consent Order shall constitute a violation of a Board Order and shall provide grounds for further disciplinary action.

NEW JERSEY STATE REAL  
ESTATE APPRAISER BOARD

By:

  
Joseph Palumbo  
Board President

I have read and understand  
this Order, agree to the entry  
of this Order as a matter  
of public record, and agree to be  
bound by the terms above.

  
Jay S. Rosenthal  
Certification # 42RC00124200